



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

| | | | |
|------------|-------------|----------------------|---------------------|
| 08/316,422 | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|------------|-------------|----------------------|---------------------|

08/316,422 09/30/94 McDONALD

F3M1/1031

FULLWIDER, PATTON, LEE & UTECHT
10TH FLOOR
10977 WILSHIRE BLVD.
LOS ANGELES, CA 90024

| | |
|----------|-------|
| 1 | 35421 |
| EXAMINER | |

DEANE, W

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3 8

3307

DATE MAILED:

10/31/95

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☒ Notice of References Cited by Examiner, PTO-892.
- ☐ Notice of Draftsman's Patent Drawing Review, PTO-948.
- ☒ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of Informal Patent Application, PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐ _____

Part II SUMMARY OF ACTION

1. ☒ Claims 1-21 are pending in the application.

Of the above, claims 2, 11 & 18 are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 1-21 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☒ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☒ The proposed drawing correction, filed 04 Aug 95, has been ☒ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the mask shown in a rolled up in essentially cylindrical configuration must be shown or the feature cancelled from the claim. No new matter should be entered.

Claims 1, 3 - 7 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, in line 12 and line 14, there is no proper antecedent basis for "flexible lens" or "lens" respectively. In line 19, "attach points" does not have proper antecedent basis. In claim 3, line 4, mounting points lacks proper antecedent basis.

This is not intended to be an exhaustive list but rather examples of the types of problems found throughout the claims.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1, 3 - 10, 12 - 17, and 19 - 21 are rejected under 35 U.S.C. § 103 as being unpatentable over Aulgur et al. in view of Eros MAGIC quick donning mask. Aulgur et al teach a quick donning oxygen face mask having a flexible face seal (12 & 18) having a plurality of mounting points (Fig. 1), a means to attach a regulator (13), an inflatable harness (20), extending around a neck of a user, an adjustable strap (14), and passages between regulator and seal (Fig. 1). Therefore, it appears that Aulgur et al. teach the claimed device except for the flexible lens and the anti fog means. Note that Eros MAGIC quick donning mask teaches a flexible lens and anti-fog means (see *, in the column). It would have been obvious to one of ordinary skill in the art to have provided the Aulgur et al. device with such a flexible lens with anti-fog capability as taught by Eros MAGIC quick donning mask as an obvious means for protecting the eyes of a user. In regard to claims 3 & 12, wear it is shown that one inflatable harness is known in the art it would be obvious to one of ordinary skill in the art to have provided a plurality of such harnesses. Also note Piljay et al. (in the pertinent art). In regard to claim 8 (not already discussed supra), note that the

Serial Number: 08/316422
Art Unit: 3307

-4-

Eros mask is stored in a compact box (see \$, in the column).
With respect to claims 4, 5, 13, 14, 20 and 21 see Col 5, lines 5+ of Aulgur et al. With respect to claim 6, and 16 abrasion resistant coating is well known in the art and such coating is widely available in any optical store. With regard to claim 7, note element #30 of Aulgur et al.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Phillips - note inflatable mask and flexible lens;
Piljay et al. - note the pneumatic head harness;
Delest - note harness and mask;
Gutman - note harness;
Shonerd - note foldable lens;
Dosch et al. note foldable lens.
Reisman et al.

Any inquiry concerning this communication should be directed to Bill Deane at telephone number (703) 308-2868. In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (703) 308-2864.

WJD
[Signature]
27Oct95

[Signature]
CHRISTOPHER A. BENNETT
PRIMARY EXAMINER
GROUP 3300